

AMENDED IN ASSEMBLY JUNE 15, 2011

AMENDED IN ASSEMBLY JUNE 6, 2011

AMENDED IN SENATE MAY 3, 2011

AMENDED IN SENATE APRIL 14, 2011

**SENATE BILL**

**No. 332**

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**Introduced by Senator Padilla**

February 15, 2011

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~~An act to add Article 1.5 (commencing with Section 104497) to Chapter 1 of Part 3 of Division 103 of the Health and Safety Code, relating to smoking. An act to add Section 1947.5 to the Civil Code, relating to tenancies.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 332, as amended, Padilla. ~~Smoking: rental dwellings. Rental dwellings: smoking.~~

Existing law regulates the terms and conditions of residential tenancies. Existing law authorizes the creation of antitobacco use programs for school-age populations and prohibits any person from smoking a cigarette, cigar, or other tobacco-related product, or from disposing of cigarette butts, cigar butts, or any other tobacco-related waste, within a playground.

This bill would authorize a landlord of a residential dwelling unit to prohibit the smoking of tobacco products on the property, in a dwelling unit, in another interior or exterior area, or on the premises on which the dwelling unit is located. The bill would make certain requirements on notices and leases executed on and after, and on and before, January 1, 2012, in this regard. The bill would require that a landlord who prohibits smoking pursuant to this authority be subject to federal, state,

and local requirements governing changes to the terms of a lease or rental agreement for tenants, as specified. The bill would provide that its provisions do not preempt local ordinances in effect on or before January 1, 2012.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. The Legislature finds and declares all of the  
2     following:
- 3     (a) More than 443,000 people die in the United States from  
4     tobacco-related diseases every year, making tobacco-related  
5     diseases the nation's leading cause of preventable death.
- 6     (b) The State Department of Public Health has estimated that  
7     86 percent of adult Californians are nonsmokers. Secondhand  
8     smoke is responsible for an estimated 49,400 deaths among  
9     nonsmokers each year in the United States, which includes 3,400  
10    lung cancer deaths and 46,000 deaths due to heart disease.  
11    Secondhand smoke also has been proven to cause cancer in  
12    humans.
- 13    (c) Secondhand smoke exposure adversely affects fetal growth  
14    with elevated risk of low birth weight and increased risk of sudden  
15    infant death syndrome (SIDS) in infants of mothers who smoke.
- 16    (d) Secondhand smoke exposure causes as many as 300,000  
17    children in the United States under 18 months of age to suffer  
18    lower respiratory tract infections, such as pneumonia and  
19    bronchitis; exacerbates childhood asthma; and increases the risk  
20    of acute, chronic, middle-ear infections in children.
- 21    (e) The United States Environmental Protection Agency has  
22    classified secondhand smoke as a group A carcinogen, the most  
23    dangerous class of carcinogen.
- 24    (f) The United States Surgeon General has concluded that there  
25    is no risk-free level of exposure to secondhand smoke.
- 26    (g) The State Air Resources Board has put secondhand smoke  
27    in the same category as the most toxic automotive and industrial  
28    air pollutants by categorizing it as a toxic air contaminant for which  
29    there is no safe level of exposure.
- 30    (h) The California Environmental Protection Agency has  
31    included secondhand smoke on the Proposition 65 list of chemicals

1 known to the State of California to cause cancer, birth defects, and  
2 other reproductive harm.

3 (i) Thirty-one percent of California's housing is multiunit  
4 residences, such as apartments and condominiums.

5 ~~SEC. 2. Article 1.5 (commencing with Section 104497) is~~  
6 ~~added to Chapter 1 of Part 3 of Division 103 of the Health and~~  
7 ~~Safety Code, to read:~~

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9 ~~Article 1.5. Smoking of Tobacco Products in Residential Rental~~  
10 ~~Units~~  
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12 *SEC. 2. Section 1947.5 is added to the Civil Code, to read:*

13 ~~104497.~~

14 *1947.5.* (a) A landlord of a residential dwelling unit, as defined  
15 in Section 1940 of the Civil Code, or his or her agent, may prohibit  
16 the smoking of a cigarette, as defined in Section 104556 of the  
17 *Health and Safety Code*, or other tobacco product on the property  
18 or in any building or portion of the building, including any dwelling  
19 unit, other interior or exterior area, or the premises on which it is  
20 located, in accordance with this article. A limitation or prohibition  
21 on the use of any tobacco product shall not affect any other term  
22 or condition of the tenancy.

23 (b) (1) Every lease or rental agreement entered into on or after  
24 January 1, 2012, for a residential dwelling unit on property on any  
25 portion of which the landlord has prohibited the smoking of  
26 cigarettes and or other tobacco products pursuant to this article  
27 shall include a provision that specifies the areas on the property  
28 where smoking is prohibited, if the lessor lessee has not previously  
29 occupied the dwelling unit.

30 (2) For a lease or rental agreement entered into before January  
31 1, 2012, a prohibition against the smoking of cigarettes and or  
32 other tobacco products in any portion of the property in which  
33 smoking was previously permitted shall constitute a change of the  
34 terms of tenancy, requiring adequate notice in writing, to be  
35 provided in the manner prescribed in Section 827 of the Civil Code.

36 (c) A landlord who exercises the authority provided in  
37 subdivision (a) to prohibit smoking shall be subject to federal,  
38 state, and local requirements governing changes to the terms of a  
39 lease or rental agreement for tenants with leases or rental

1 agreements that are in existence at the time that the policy  
2 prohibiting smoking is adopted.  
3 (d) This section shall not be construed to preempt any local  
4 ordinance in effect on or before January 1, 2012, nor shall it be  
5 construed to require statutory authority to establish or enforce any  
6 other lawful term or condition of the tenancy.

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